

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

ANTHONY GILLESPIE,

Plaintiff,

v.

9:08-CV-1339
(TJM/GHL)

DR. LESTER N. WRIGHT, Chief Medical Officer, NYS
Department of Correctional Services; DR. RAMINENI, MD,
Facility Health Services Director, Mid-State Correctional Facility;
MS. J. M. HARRIS, Nurse Administrator, Mid-State
Correctional Facility; DR. V. MANAVA, MD, Mid-State
Correctional Facility; JOHN/JANE DOE 1-50, DOCS
Supervisory, Training and Policy Personnel,

Defendants.

APPEARANCES:

OF COUNSEL:

ANTHONY GILLESPIE

Plaintiff, *pro se*

99-A-5737

Mid-State Correctional Facility

P.O. Box 2500

Marcy, NY 13403

OFFICE OF THE ATTORNEY GENERAL

State of New York

Attorney for Defendants

The Capitol

Albany, NY 12224

MICHAEL G. McCARTIN, ESQ.

Assistant Attorney General

THOMAS J. McAVOY, SENIOR JUDGE

DECISION and ORDER

Plaintiff Anthony Gillespie commenced this action pursuant to 42 U.S.C. § 1983 in December, 2008, alleging the violation of his constitutional rights during his confinement at Mid-State Correctional Facility. Dkt. No. 1. By Decision and Order of this Court filed March 26, 2009, plaintiff was granted leave to proceed *in forma pauperis* and the Clerk was directed to issue summonses for the four named defendants. Dkt. No. 4.

By motion filed April 1, 2009, plaintiff sought leave to amend his complaint to name five additional defendants who were referred to in the original complaint only as “John/Jane Doe 1-50, DOCS Supervisory, Training and Policy Personnel.” Dkt. No. 6. Because plaintiff did not submit a proposed amended complaint in support of his motion, his request was denied without prejudice. Dkt. No. 7. In response to that Order, plaintiff submitted an amended complaint and supporting affidavit. Dkt. No. 8. The proposed amended complaint named as defendants only the five recently identified staff members at Mid-State Correctional Facility and did not clearly indicate any intention by plaintiff to abandon his claims against the original defendants. In addition, rather than setting forth in the amended complaint a statement of the relevant facts and the claims asserted against the newly identified defendants, plaintiff sought to incorporate that information by reference to his original complaint. Dkt. No. 8 at 1-6. Accordingly, Magistrate Judge Lowe denied plaintiff’s request to file that pleading and afforded him yet another opportunity to file a proper amended complaint. Dkt. No. 15.

Presently before this Court is a letter from plaintiff advising that no he no longer intends to name additional defendants in this action and stating his intention to proceed with this action on the basis of his original complaint against the four defendants named therein (Dr. Lester N. Wright, Dr. Ramineni, N.A. Harris and Dr. Manava). Dkt. No. 16. Plaintiff further states that he does not intend to name additional defendants (or identify the John/Jane Doe defendants) in this action.

As of the date hereof, no answer or motion has been filed by any defendant.

Accordingly, plaintiff’s request to dismiss this action against all defendants other than the four original defendants is granted. *See* Fed.R.Civ.P. 41(a)(1).

WHEREFORE, it is hereby

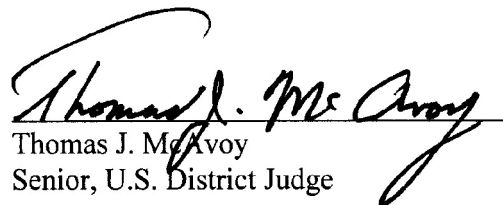
ORDERED, that plaintiff's request to dismiss this action against all defendants other than Dr. Lester N. Wright, Dr. Ramineni, N.A. Harris and Dr. Manava, is granted. The Clerk is directed to revise the docket to reflect that Dr. Lester N. Wright, Dr. Ramineni, N.A. Harris and Dr. Manava are the only defendants in this action, and it is further

ORDERED, that defendants' response to the complaint shall be filed **no later than July 31, 2009**, and it is further

ORDERED, that the Clerk of the Court serve a copy of this Order on the parties.

IT IS SO ORDERED.

Dated: June 13, 2009


Thomas J. McAvoy
Senior, U.S. District Judge